

STATE OF SOUTH DAKOTA
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF ADULT SERVICES AND AGING

RECEIVED

JAN 20 2011

ADULT SERVICES
& AGING

Consultant Contract
For Consultant Services
Between

AssistGuide Information Systems
(AGIS) Network, Inc
2122 Kratky Rd
St Louis MO 63114

State of South Dakota
Department of Social Services

DIVISION OF ADULT SERVICES AND AGING
700 Governors Drive
Pierre, SD 57501-2291

Referred to as Consultant

Referred to as State

The State hereby enters into a contract for consultant services with the Consultant. While performing services hereunder, Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

1. CONSULTANT'S South Dakota Vendor Number is 12266136
2. PERIOD OF PERFORMANCE:
This Agreement shall be effective as of **November 1, 2010** and shall end on **May 31, 2011**, unless sooner terminated pursuant to the terms hereof.
3. WILL THE CONSULTANT USE STATE EQUIPMENT, SUPPLIES, OR FACILITIES?
No.
4. PROVISIONS:
 - A. The Purpose of this Consultant contract:
 1. Initial development and implementation of a Consumer Directed Online Information System as agreed upon by all parties and as extended as necessary due to non-compliance of other parties.
 2. Ongoing operational functions of the system.
 3. Ongoing SAMS IR Web license.

B. The Consultant agrees to (add an attachment if needed.):

1. Consultant will complete initial development and implementation of the following:

- Interoperate with the Base Harmony Database System operating in SD Local Servers
- Responsible for Harmony and AGIS effort to interoperate to provide a secure load of Service Provider data extract to AGIS Resource Center system hosted at AGIS. SD BIT personnel will assist with the brief upgrade and test.
- Text, images and banner/header graphics and logos to make the site blend in with existing State system. AGIS can use State owned .gov URLs if desired.
- Provider Database and Search Engine, and Aliasing technology
- Learn About Module (Search Engine, Framework and Toolkit)
- Long Term Care Planning Learn About Module
- Data Tracking and Reporting
- Assess My Needs Module

2. Consultant will provide ongoing operational functions and admin toolkits for maintaining the system, provide technical support, correct software discrepancies, upgrade functionality of licensed modules and provide backup and recovery as needed.

3. Consultant will provide initial operations maintenance training as well as ongoing training/retraining as needed without extra charge via web-classes once a quarter.

4. Consultant will make minor updates to text, images and banner/header graphics and logos without extra charge. If a total revamp of the site look and feel is requested, the consultant will provide a quote for the updates requested.

C. The State agrees to:

1. Make payment for services upon satisfactory completion of services and receipt of bill.
2. Will the State pay Consultant expenses as a separate item?
YES () NO (X)
If YES, expenses submitted will be reimbursed as identified in this agreement.
3. The **TOTAL CONTRACT AMOUNT** will not exceed \$ 37,465.

Initial Set Up Fee: \$22,415

Recurring Operation Fees: \$1,750 Monthly, beginning the month in which the system is operational

SAMS IR Web Application: 4,550 Annually

5. BILLING:

Consultant agrees to submit a bill for services within thirty (30) days following the quarter in which services were provided. Consultant will prepare and submit quarterly bills for services. Consultant agrees to submit a final bill within 45 days of the contract end date to receive payment for completed services. If a final bill cannot be submitted in 45 days, then a written request for extension of time and explanation must be provided to the State.

6. TECHNICAL ASSISTANCE:

The State agrees to provide technical assistance regarding Department of Social Services rules, regulations and policies to the Consultant and to assist in the correction of problem areas identified by the State's monitoring activities

7. LICENSING AND STANDARD COMPLIANCE:

The Consultant agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Consultant's failure to ensure the safety of all individuals served is assumed entirely by the Consultant.

8. ASSURANCE REQUIREMENTS:

The Consultant agrees to abide by all applicable provisions of the following assurances: Lobbying Activity, Debarment and Suspension, Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996, Charitable Choice Provisions and Regulations, and American Recovery and Reinvestment Act of 2009 as applicable.

9. RETENTION AND INSPECTION OF RECORDS:

The Consultant agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. All data inputted by the State or State Consumers into the system is and will remain the sole property of the State. Should this contract be terminated and not renewed, the Consultant will provide a full copy of all SD data to the State.

All payments to the Consultant by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this contract shall be returned to the State within thirty days after written notification to the Consultant.

The Consultant reserves all rights to the Intellectual Property of its products and services, and it grants a non-exclusive, non-transferable right to the State of all reports, recommendations, documents, drawings, plans, specifications, technical data and information, copyrights, patents, licenses, or other products produced as a result of the services rendered under this Contract. Either the originals or reproducible copies satisfactory to the State, of all technical data, evaluations, reports and other work product of the Consultant shall be delivered to the State upon completion or termination of services under this Contract.

10. TERMINATION:

This contract may be terminated by either party hereto upon sixty (60) days written notice, and may be terminated by the State for cause at any time, with or without notice. Upon termination of this agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

11. FUNDING:

This Contract depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Contract will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

12. AMENDMENTS:

This Contract may not be assigned without the express prior written consent of the State. This Contract may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

13. CONTROLLING LAW:

This Contract shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

14. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Contract are superseded by the terms of this Contract, and except as specifically provided herein, this Contract constitutes the entire agreement with respect to the subject matter hereof.

15. SEVERABILITY:

In the event that any provision of this Contract shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

16. NOTICE:

Any notice or other communication required under this Contract shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

17. SUBCONTRACTORS:

The Consultant may not use subcontractors to perform the services described herein without express prior written consent from the State. The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Contract, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Contract. The Consultant will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

18. HOLD HARMLESS:

The Consultant agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

19. INSURANCE:

Before beginning work under this Contract, Consultant shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Contract. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by the State.

A. Commercial General Liability Insurance:

Consultant shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Contract or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance:

Consultant shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

C. Worker's Compensation Insurance:

Consultant shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

D. Professional Liability Insurance:

Consultant agrees to procure and maintain professional liability insurance with a limit not less than \$1,000,000.

20. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Consultant certifies, by signing this agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

21. CONFLICT OF INTEREST:

Consultant agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain.

22. REPORTING PROVISION:

Consultant agrees to report to the State any event encountered in the course of performance of this Contract which results in injury to any person or property, or which may otherwise subject Consultant, or the State of South Dakota or its officers, agents or employees to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.

23. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

<u>Patti Hanson</u> Consultant Signature	<u>1/14/11</u> Date
<u>Marilyn Kinsman</u> State - DSS Division Director Marilyn Kinsman	<u>1/12/10</u> Date
<u>Brenda Tidball-Zeltinger</u> State - DSS Chief Financial Officer Brenda Tidball-Zeltinger	<u>1/3/10</u> Date
<u>[Signature]</u> Commissioner Doll - Bureau of Information and Technology	<u>1-7-2011</u> Date
<u>[Signature]</u> Commissioner Bloomberg - Bureau of Administration	<u>1/7/11</u> Date

State Agency Coding:

ARRA (Stimulus Funds) - YES OR NO? **No**

Company	<u>2004</u>	<u> </u>	<u> </u>	<u> </u>
Account	<u>5204330</u>	<u> </u>	<u> </u>	<u> </u>
Center Req	<u>0832100</u>	<u> </u>	<u> </u>	<u> </u>
Center User	<u>30901</u>	<u> </u>	<u> </u>	<u> </u>
Dollar Total	<u>\$37,465</u>	<u> </u>	<u> </u>	<u> </u>
CFDA #	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DSS Program Contact Person Lori Isburg-Breding
Phone 605-734-4500

DSS Fiscal Contact Person Patty Hanson
Phone 605-773-3586

Consultant Program Contact Person Al Schreitmueller
Phone 443-995-1877

Consultant Fiscal Contact Person Dave Shroat
Phone 314-372-0410

Consultant Email Address al@agisnetwork.com

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the State agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.